

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MAHASKA COMMUNICATION GROUP, LLC	DOCKET NOS. TCU-03-1 TF-03-51 WRU-03-3-3688
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**ORDER GRANTING APPLICATION, APPROVING CONCURRENCE IN MAPS,
GRANTING WAIVER, APPROVING TARIFF, AND ISSUING CERTIFICATE**

(Issued March 26, 2003)

On January 22, 2003, Mahaska Communication Group, LLC (Mahaska), filed with the Utilities Board (Board) an application for a certificate of public convenience and necessity, pursuant to Iowa Code § 476.29 (2003), stating its intention to provide local exchange telecommunications service in the Oskaloosa, Iowa, exchange currently served by Qwest Corporation (Qwest). The application has been identified as Docket No. TCU-03-1. Mahaska provided the qualifications of its company officers and financial statements and stated it will support a 2-PIC methodology for dialing parity.

Also on January 22, 2003, Mahaska filed a proposed tariff with the Board providing the terms, conditions, and rates for local exchange service in listed exchanges as described in Qwest's exchange maps and boundaries. The proposed tariff has been identified as Docket No. TF-03-51.

Iowa Code § 476.29(2) provides that a local exchange carrier shall not be denied a certificate if the Board finds that the applicant "possesses the technical,

financial, and managerial ability to provide the service it proposes to render and the board finds the service is consistent with the public interest.”

The Board has reviewed Mahaska’s application and finds the necessary technical, financial, and managerial ability to provide local exchange service has been demonstrated. The Board finds that it is consistent with the public interest to approve the application.

Mahaska also states that its service area will mirror the service territory and service area maps of the Oskaloosa, Iowa, exchange of Qwest as they are currently filed and may be modified in the future. Iowa Code § 476.29(4) requires that each certificate define the service territory in which land-line local telephone service will be provided and authorizes the Board to promulgate rules establishing the requirements for filing maps showing the service territory. Subrule 199 IAC 22.20(3) requires that all utilities have maps on file with the board that show exchange boundaries. The Board finds that Mahaska has complied with the statutory and rule requirements by concurring in the exchange maps of Qwest in the Oskaloosa, Iowa, exchange.

Mahaska has requested the Board waive the requirements of 199 IAC 16.5(2) and 22.3(1). The request has been identified as Docket No. WRU-03-3-3688.

Mahaska requested a waiver of 199 IAC 16.5(2), which requires the keeping of records according to the uniform system of accounts. Mahaska states that it employs an accounting system in accordance with generally accepted accounting principles (GAAP). The Board finds this waiver should be granted, since records kept in accordance with GAAP accounting are acceptable for a competitive local exchange service provider.

Mahaska also requests a waiver of 199 IAC 22.3(1), requiring it to independently publish a directory. The Board will grant this waiver based upon Mahaska's statement that it will arrange for its customers to be included in the directories published by Qwest in the areas it provides local exchange service.

Rule 199 IAC 1.3 states that the Board may grant a waiver if it finds, based upon clear and convincing evidence, that the application of the rule would pose an undue hardship, would not prejudice the substantial legal rights of any person, the provisions waived are not specifically mandated by statute, and substantially equal protection of public health, safety, and welfare will be afforded after the waiver. The Board has considered the waiver requests as described above and finds that the waiver meets the four criteria of the rule and the evidence in support of the waiver is clear and convincing.

Adherence to these rules would be an undue hardship on a competitive telecommunications company just beginning to do business in Iowa. It would be an undue hardship on Mahaska because other competitive carriers have been granted similar waiver requests. The Board finds there are no substantial legal rights of any person that are affected by these waivers and there is no statute that specifically mandates the actions waived. Additionally, the Board finds that there will be substantial equal protection for health, safety, and welfare provided since the actions waived will be completed under different circumstances.

The Board has reviewed the proposed tariff filed on January 22, 2003, and finds that it substantially complies with Board rules for the filing and processing of tariff pages. The tariff contains rates for both business and residential customers.

Notice was provided to all affected carriers. The Board will approve the tariff effective the date of this order and issue Mahaska a certificate of public convenience and necessity concurrent with this order.

IT IS THEREFORE ORDERED:

1. The application for a certificate of public convenience and necessity filed by Mahaska Communication Group, LLC, on January 22, 2003, is granted.
2. The concurrence in the maps and boundaries of the exchanges of Qwest Corporation is approved.
3. The waiver of 199 IAC 16.5(2), and 22.3(1), identified as Docket No. WRU-03-3-3688, is granted as described in this order.
4. The tariff filed by Mahaska Communication Group, LLC, on January 22, 2003, identified as Docket No. TF-03-51, is approved effective the date of this order.
5. A certificate, identified as Certificate No. 0266, is being issued to Mahaska Communication Group, LLC, concurrent with this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 26th day of March, 2003.